



**CITY COMMISSION AGENDA
CITY HALL CHAMBERS
251 W. Plant Street**

REGULAR MEETING

MARCH 27, 2008

6:30 P.M.

CALL TO ORDER

Determination of a Quorum

Invocation and Pledge of Allegiance

1. APPROVAL OF MINUTES

Regular Meeting of March 13, 2008

2. PROCLAMATION AND SPECIAL PRESENTATION

A. [Proclamation 08-01](#): Water Conservation the Month of April – Mayor Rees

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCE

A. [Ordinance 08-21](#): AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, ADDING DIVISION 6 IN ARTICLE II OF CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN ENTITLED “DOWNTOWN WINTER GARDEN MINIMUM MAINTENANCE CODE”; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE – City Manager Bollhoefer

4. REGULAR BUSINESS

A. Recommendation to approve agreement with Nodarse & Associates, Inc. (*Postponed February 14 and 28, 2008*); Ardaman & Associates, Inc. and Universal Engineering Sciences for environmental, geotechnical and materials testing services - Public Services Director Cochran

B. Recommendation to approve annual services contracts for cleaning and television inspection services of sanitary sewer and stormwater systems with Altair Environmental Group, LLC; DeWitt Excavating, Inc; Absolute Line Technologies, Inc. on an as needed basis – Public Services Director Cochran

5. MATTERS FROM CITIZENS (*Limited to 3 minutes per speaker*)

6. MATTERS FROM CITY ATTORNEY – Kurt Ardaman

7. MATTERS FROM CITY MANAGER – Mike Bollhoefer

A. Discussion regarding a policy for naming public parks and recreational facilities – Recreation Director Conn

B. Update on two proposed boards; Downtown Architectural Review Board and State Road 50 Beautification Committee

8. MATTERS FROM MAYOR AND COMMISSIONERS

ADJOURN to a regular City Commission meeting on April 10, 2008 in City Hall Chambers

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 251 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

Proclamation

08-01

Whereas, water is a basic and essential need of every living creature; and

Whereas, the State of Florida, Water Management Districts and the City of Winter Garden are working together to increase awareness about the importance of water conservation; and

Whereas, the City of Winter Garden and the State of Florida have designated April, typically a dry month when potable water demands are most acute, Florida's Water Conservation Month, to educate citizens about how they can help save Florida's precious water resources; and

Whereas, the City of Winter Garden has always encouraged and supported water conservation, through various educational programs and special events; and

Whereas, every business, industry, school, and citizen can make a difference when it comes to conserving water; and

Whereas, each business, industry, school, and citizen can help save water and thus promote a healthy economy and community; and

Now, therefore, I, John Rees, Mayor of the City of Winter Garden, Florida, do hereby proclaim the month of April 2008 as

Water Conservation Month

and call upon each citizen and business to help protect our precious resource by practicing water saving measures and becoming more aware of the need to save water.

In witness thereof, I have hereunto set my hand and caused the City Seal to be affixed this 27th day of March, 2008.

Mayor John Rees

Attest:

Kathy Golden, City Clerk

ORDINANCE 08-21

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA ADDING DIVISION 6 IN ARTICLE II OF CHAPTER 18 OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN ENTITLED "DOWNTOWN WINTER GARDEN MINIMUM MAINTENANCE CODE"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden desires to ensure high standards of property maintenance within the downtown corridor; and

WHEREAS, unkempt properties have an adverse effect upon surrounding property value and propagate negative attitudes for expanding and/or relocating businesses; and

WHEREAS, minimum maintenance standards are necessary to ensure public safety; and

WHEREAS, the City Code currently does not provide any minimum maintenance standards for the downtown property owners.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: Authority: The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

SECTION 2: Adoption: The following Sections shall be included in Article II of Chapter 18 of the Winter Garden Code of Ordinances and shall read as follows:

DIVISION 6. DOWNTOWN WINTER GARDEN MINIMUM MAINTENANCE CODE.

Sec. 18-174. Title.

This Division shall be known and may be cited as the "Downtown Winter Garden Minimum Maintenance Code."

Sec. 18-175. Applicability

The minimum maintenance standards contained in this division shall be applicable to all unimproved and improved commercial properties, within the C-1 Zoning District (the downtown area). Commercial properties outside the geographic boundaries of the C-1 Zoning District are not bound by these standards. These minimum maintenance standards shall be in addition to any other standards, codes, ordinances, rules, regulations or other statutory requirements applicable to such properties. Single Family Residential properties within the C-1 zone are specifically exempt from these requirements.

Sec. 18-176. Purpose and Intent

It shall be the purpose and general intent of this Division to ensure regular maintenance and upkeep to existing buildings, structures, and exterior property located on commercial, office, institutional, or residential lands located in the C-1 Zoning District; to safeguard against blight and preserve property values and community standards; to establish minimum maintenance standards to safeguard life, limb, health, safety, property, and public welfare; to assist in the continued revitalization of areas in the Downtown Area; and to attract new businesses and promote the public interest in continued development.

Sec. 18-177. Definitions.

For the purposes of the Downtown Winter Garden Minimum Maintenance Code, certain terms and words used herein shall have the following meaning:

Accessory structure. The term "accessory structure" shall be construed to mean a building which is customarily incidental and subordinate to a principal use of property and is located upon said property.

Building Code. The term "Building Code" shall be construed to mean the building code as established in the City of Winter Garden Code of Ordinances.

Code enforcement board. The term "Code enforcement board" shall be construed to mean the City of Winter Garden Municipal Code Enforcement Board created pursuant to

Chapter 162, Florida Statutes, and as otherwise established in the City of Winter Garden Code of Ordinances.

Debris. The term “debris” shall be construed to mean material which is stored outdoors and shall include, but is not limited to, the following: discarded household items; inoperative or discarded machinery, vehicles, or appliances; refuse, trash, or junk; and used scrap or discarded lumber, pipe, steel, plumbing fixtures, insulation or other building materials.

Deterioration. The term “deterioration” shall be construed to mean a lowering in quality in the condition or appearance of a building or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, spalling, peeling, rusting, or any other evidence of physical decay or neglect, excessive use, or lack of maintenance.

Dilapidated. The term “dilapidated” shall be construed to mean substantial deterioration of a building or parts thereof, rendering said building, or portion thereof, inadequate for the purpose or use for which it was originally intended.

Garbage regulations. The term “garbage regulations” shall be construed to mean the provisions and standards as stated in Chapter 58, Solid Waste, City of Winter Garden Code of Ordinances.

Infestation. The term “infestation” shall be construed to mean the presence within or around a commercial property of insects, rodents, or pests which are detrimental to the public health, safety, and general welfare of occupants or visitors; and, in the case of a structure, that if left unattended, may result in structural deterioration.

Inoperative vehicle. The term “inoperative vehicle” shall be construed to mean a vehicle which is missing functioning parts including, but not limited to, the chassis, engine, wheels, or tires; or any vehicle without a valid, current registration; or any vehicle which is incapable of movement under its own power and will remain so unless repair or reconstruction occurs.

Nuisance conditions. The term “nuisance conditions” shall be construed to mean (a) any nuisance as defined by law, whether general law or City Code, (b) any attractive nuisance which may be detrimental to the health or safety of children whether in a building, on the premises of a building, or upon an unoccupied job site. This includes, but is not limited to: abandoned wells or shafts; or excavations; abandoned iceboxes, refrigerators, or motor vehicles; any structurally unsound fences or structures; lumber, trash/debris, or any other materials which may provide a hazard; (c) unsanitary conditions or anything offensive to the senses or dangerous to health including, but not limited to: the emission of odors, sewage, human waste, liquids, gases, dust, smoke, vibration, noise, or whatever may render air, food, or drink detrimental to the health of human beings; (d) physical conditions such as, but not limited to: old, dilapidated, abandoned scrap or metal, paper, building materials and equipment, bottles, glass, appliances, furniture, rags, rubber, motor vehicles, and parts hereof; (e) physical conditions posing fire hazards; (f) physical conditions posing a hazard such as, but not limited to, dead or damaged trees.

Operator. The term “operator” shall be construed to mean any person who has charge, care, or control of a building, a part thereof, with or without the knowledge or consent of the owner.

Owner. The term “owner” shall be construed to mean a person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including without limitation, an authorized agent, attorney, executor, personal representative, or trustee) has legal or equitable title to any property in question, or a tenant, if the tenancy is chargeable under the lease for property maintenance; or, the requisite owner of a vehicle, as determined by the division of highway safety and motor vehicles (or corresponding agency) of any state.

Person. The term “person” shall be construed to mean any individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, private or public corporation, and all other groups or combination thereof.

Plumbing Code. The term “Plumbing Code” shall be construed to mean the plumbing code as established in the City of Winter Garden Code of Ordinances.

Premises. The term “premises” shall be construed to mean a lot, plot, or parcel of land and may include any building or structure thereon.

Stairway. The term “stairway” shall be construed to mean one or more flights of stairs and the necessary landings and platforms which form a continuous and uninterrupted passage from one story to another within or attached to the exterior of a building or structure.

Story. The term "story" shall be construed to mean that portion of a building included between the upper surface of any floor and the upper surface of the floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished ceiling level directly above a basement or cellar is more than six (6) feet above grade, the basement or cellar shall be considered a story.

Structure. The term "structure" shall be construed to mean anything constructed or erected, installed or portable with a fixed location on the ground, or attached to an object having a fixed location on the ground, the use of which requires location on a parcel of land. It includes a movable structure while it is located on land which can be used for business, commercial, agricultural, educational, or office purposes either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, fences, poles, pipelines, transmission lines, advertising signs, and to the extent not superseded by federal law or regulation, radio and television antennae and dishes.

Trash. The term "trash" shall be construed to mean non-putrescible solid wastes (excluding ashes), consisting of both combustible and non-combustible wastes, such as paper, cardboard, boxes, crates, tin cans, yard clippings, leaves, wood, glass, crockery, and similar materials that may accumulate about property.

Weatherproof. The term "weatherproof" shall be construed to mean able to withstand exposure to weather without damage or loss of function.

Weathertight. The term "weathertight" shall be construed to mean able to exclude wind and rain under normal conditions.

Sec. 18-178. Enforcement.

(a) It shall be the duty of the code enforcement division of the Winter Garden Police Department to initiate enforcement proceedings of the Downtown Winter Garden Minimum Maintenance Code. Where applicable, the building official shall assist the code enforcement officer in the investigation of violations, inspections of premises, or other actions necessary to enforce compliance with the Downtown Winter Garden Minimum Maintenance Code.

(b) The code enforcement division of the Winter Garden Police Department shall establish administrative rules of procedure for administering and enforcing the Downtown Winter Garden Minimum Maintenance Code. Any action taken pursuant to the Downtown Winter Garden Minimum Maintenance Code shall be considered cumulative and in addition to penalties and to other remedies provided elsewhere by ordinance or law.

Sec. 18-179 Code enforcement board.

(a) Violations of any provision of the Downtown Winter Garden Minimum Maintenance Code shall be governed by, but not limited to, the requirements and remedies of the code enforcement board pursuant to the provisions of Chapter 2, Article 2 of the City of Winter Garden Code of Ordinances.

(b) Other remedies: The city may institute other remedies and appropriate action to restrain, correct, or abate violations of the Downtown Winter Garden Minimum Maintenance Code including, but not limited to the use of citations or condemnation of buildings or structures pursuant to the unsafe building abatement code. If, at the option of the Code Enforcement Officer, a citation is issued in lieu of Code Enforcement procedures, said violation will be a Class I violation as defined in Section 2-92 of the Code of Ordinances.

Sec. 18-180. Prevalence of state laws and local ordinances.

(a) The minimum standards established by the Downtown Winter Garden Minimum Maintenance Code do not replace or modify standards established by any other applicable laws or ordinances for the construction, replacement, or repair of structures.

(b) Where the provisions of the Downtown Winter Garden Minimum Maintenance Code impose a higher standard than those set forth in any city ordinance or under the Florida Statutes, then the standard set forth herein shall prevail. Should the provisions of the Downtown Winter Garden Minimum Maintenance Code impose a lower standard than those set forth in any other city ordinance or pursuant to the Florida Statutes, the higher standard set forth shall prevail.

Sec. 18-181. Minimum standards.

The owner or operator of any parcel of land located within C-1 Zoning District shall maintain all buildings, structures, and property free of nuisance conditions and in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to

occupy premises which are not in sanitary and safe condition and which do not comply with the requirements of this division. Owners shall be responsible for physical structural conditions. Operators shall be responsible for activities falling under normal business operations unless specified under contractual agreement with owner. Owners, operators, occupants, and tenants are jointly responsible for keeping in a clean, sanitary and safe condition that part of the buildings, structures, premises, and property which they occupy and control, consistent with the applicable following requirements:

(a) Exterior of structures.

(1) Foundation. The building foundation walls, or other structural elements, shall be maintained safely and be capable of supporting the load which normal use may place thereon.

(2) Exterior walls and surfaces. All exterior surfaces including, but not limited to, doors, door and window frames, cornices, breezeways and trim shall be secure and maintained in good condition and shall be clean, neat, and attractive. All defective structural and decorative elements shall be repaired or replaced, to match as closely as possible the original materials and construction. Exterior surfaces, other than decay-resistant materials, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking, and chipped paint shall be eliminated and surfaces repainted. Exterior surfaces shall be kept free of markings, carvings or graffiti. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weathertight and watertight and in sound condition and good repair to prevent infestation.

(3) Roofs. Roofs shall be kept clean and free of trash, debris, or any other element which is not a permanent part of the building or a functional element of its mechanical or electrical system and shall be maintained according to the manufacturer's specifications in a safe manner, sound condition, and good repair and shall have not defects or excessive worn surfaces which might admit rain or cause dampness in the walls or exterior portion of the building. Gutters shall be maintained to allow unobstructed flow.

(4) Structural supports. Structural elements of a building shall be maintained in good repair with no deterioration which would render it incapable of carrying normal loads.

(5) Means of egress. Every building or structure shall have a means of safe, unobstructed egress leading to open space outside of any building or structure or part thereof which shall be of a number, size, design and location meeting local and state building codes, fire codes and other applicable requirements.

(6) Protective railings. Protective railings shall be required on any unenclosed building or structure over thirty (30) inches from the ground level or on any steps containing four (4) or more risers. Such handrails (or protective railings) shall be maintained in good condition and be capable of bearing normally imposed loads.

(7) Windows and exterior doors. Every window, exterior door, and basement door shall be properly fitted within its frame, provided with the proper hardware and shall be weathertight and waterproof, maintained in good repair, and properly fitted with locking devices adequate to reasonably prevent unauthorized entry. All storefront windows shall be kept unbroken, in a clean and harmonious condition, free of dirt, filth, cobwebs, marks, or foreign substances. Window panes or an approved substitute shall not be painted and shall be maintained without cracks or holes. Window openings shall not be filled or boarded up. It shall not be permitted to replace the glass with plywood or other non-translucent materials except on an emergency basis that shall not exceed a period of fifteen (15) days.

(8) Hardware. Every door shall be provided with proper hardware and maintained in good condition.

(9) Accessory structures. All accessory structures shall be maintained to avoid deterioration and shall be kept in good repair and sound structural condition. All exterior surfaces, other than decay-resistant woods, shall be protected from the elements by paint or other protective covering applied and maintained according to the manufacturer's specifications.

(10) Awnings or marquees. Any awning or marquee and its accompanying structural members which extend over any street, sidewalk or any other portion of the premises shall be maintained in good repair and shall not constitute a safety hazard. In the event such awnings or marquees are not properly maintained in accordance with the foregoing, they shall, together with their

supporting members, be removed forthwith. In the event said awnings or marquees are made of cloth, plastic or of a similar material, said cloth or plastic, where exposed to public view, shall be maintained in good condition and shall not show evidence of excessive weathering, discoloration, ripping, tearing or other holes. Awnings that are torn, badly faded, or structurally compromised shall be removed, repaired or replaced. Nothing herein shall be construed to authorize any encroachment on streets, sidewalks or other parts of the public domain.

(11) Miscellaneous elements. Mechanical equipment, air conditioning units, antennas, ducts, pipes, etc., shall be inconspicuously located. Lighting, sun protection, porches, security grills, etc., shall be maintained and kept in good repair. Any elements that are in disrepair shall be brought into compliance by repair or removal. Existing miscellaneous and nonfunctional elements on the building, such as empty electrical conduit, unused sign brackets, unused awning brackets, unsecured signs, etc., shall be removed and the building surface repaired or rebuilt.

(12) Temporary coverings. No temporary covering of any part of a structure may remain more than fifteen (15) days after ongoing construction has been completed or sixty (60) days total, whichever is longer.

(b) Garbage and trash.

(1) Trash receptacles. Garbage and trash shall be deposited only in dumpsters, cans, or other receptacles specifically manufactured and intended for such purpose and secured at all times with a tight fitting cover or lid.

(c) Parking lots and walkways.

(1) Maintenance. Parking and walkway areas shall be kept safe, in good repair, sound structural condition, and shall provide a neat, clean appearance.

(2) Surfaces. All off-street parking areas shall provide a durable, stabilized, dustless surface; free of potholes; and shall effectively dispose of surface water.

(3) Wheel stops. All parking areas shall be equipped with wheel stops, guards, or similar devices properly anchored or secured to prevent vehicles from overhanging into public rights-of-way, sidewalks, or planting areas. Wheel stops must be maintained so not to damage vehicles.

(4) Use. All parking areas shall be used for vehicular parking only and not for sales, dead storage, repair work, dismantling, or servicing of any kind unless otherwise specifically provided for. Delivery and service vehicles shall not excessively interfere with or obstruct the use of primary service drives or fire lanes, or block minimum required site triangles and/or public rights-of-way.

(d) Buffers.

(1) All buffers, fences, and walls including, but not limited to, chain link, wood, brick, and masonry construction shall be kept in good repair, sound structural condition, and shall provide a neat, clean appearance.

(2) Fences and walls which are stained or painted shall be maintained with the same and like materials, uniform in design and color.

(3) Structural supports for fences and walls shall be maintained in good repair.

(4) At all times, fences and walls shall be kept free from graffiti, undergrowth, weeds, and other unsightly matter.

(5) These standards shall not conflict with those of fences and walls which serve as swimming pool barriers.

(e) Signs.

(1) Maintenance. Signs shall be maintained and kept in good repair. Any exterior signs which have excessively weathered or faded or those upon which the paint has excessively peeled or cracked shall, with their supporting members, be removed forthwith or put into a good state of repair. Unused sign brackets, unsecured signs, etc., shall be removed and the building surface repaired or rebuilt.

(f) Landscaping.

(1) Maintenance. All grass, shrubs, and trees shall be maintained in a manner so as to prevent uncontrolled growth. All areas shall be kept free of trash and debris.

(g) Sanitation and Public Safety.

(1) All public or shared areas, parking lots, landscaped areas, breezeways, walkways, overhangs, buildings, structures, premises, and property shall be kept clean, neat and sanitary by the occupant or owner, free of trash, litter, debris, gum, tobacco butts, cobwebs, wasp nests, and other foreign substances at all times.

(2) All garbage or trash shall be disposed of and kept in the manner prescribed in the garbage regulations. Dumpsters and dumpster enclosures shall be maintained, clean, and neat.

(3) Nothing shall be placed, constructed, or maintained on any premises that shall constitute a nuisance condition or fire hazard.

(4) All buildings, structures, or accessory structures shall be free from infestation.

(5) The plumbing fixtures of every building or structure shall be maintained in a clean and sanitary condition as prescribed by the plumbing code.

SECTION 3: Codification: Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

SECTION 4: Control: In the event of a conflict or conflicts between this ordinance and other ordinances, this ordinance controls.

SECTION 5: Severability: It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: March 13, 2008.

SECOND READING AND PUBLIC HEARING: March 27,, 2008.

ADOPTED this 27th day of March, 2008, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

John Rees, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk